



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA No. 05-339

Released: February 8, 2005

FEDERAL COMMUNICATIONS COMMISSION SEEKS ADDITIONAL COMMENT ON THE SPEED OF ANSWER REQUIREMENT FOR VIDEO RELAY SERVICE (VRS)

CC DOCKET NO. 98-67

CG DOCKET NO. 03-123

PLEADING CYCLE ESTABLISHED

Comments Due: February 25, 2005

Reply Comments Due: March 4, 2005

On June 30, 2004, the Federal Communications Commission (Commission) released the *2004 TRS Report & Order*, which contained a Further Notice of Proposed Rulemaking (FNPRM) seeking comment on, among other things, a speed of answer requirement for the provision of Video Relay Service (VRS).¹ The speed of answer requirement is currently waived as a mandatory minimum standard for VRS.² VRS is a form of telecommunications relay service (TRS)³ that allows persons with hearing and speech disabilities

¹ See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, CC Dockets 90-571 and 98-67 and CG Docket 03-123, FCC 04-137, 19 FCC Rcd 12475 at ¶ 246 (June 30, 2004) (*2004 TRS Report & Order*). See also 47 C.F.R. § 64.604(b)(2) (the TRS speed of answer rule, requiring that 85 percent of all calls must be answered within 10 seconds).

² See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, CC Docket No. 98-56, DA 01-3029, 17 FCC Rcd 157 at ¶¶ 15-16 (Dec. 31, 2001) (*VRS Waiver Order*) (waiving speed of answer rule for VRS until December 31, 2003); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, CC Docket No. 98-67, DA 03-4029 (Dec. 19, 2003) (extending certain waivers for VRS, including speed of answer, until June 30, 2004); *2004 TRS Report & Order* at ¶¶ 119-123 (waiving speed of answer rule for VRS until January 1, 2006, or such time as the Commission adopts a speed of answer rule for VRS, whichever is earlier).

³ The term telecommunications relay service means "telephone transmission services that provide the ability for an individual who has a hearing or speech disability to engage in communications by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio." 47 U.S.C. § 225(a)(3); see generally *2004 TRS Report & Order* at ¶ 3 n.18.

to communicate with the TRS communications assistant (CA) in video through sign language, rather than typed text.⁴

We have reviewed the comments provided in response to the FNPRM contained in the *2004 TRS Report & Order*, and find that they lack specificity on certain elements of a speed of answer rule. Therefore, we seek additional comment on whether a speed of answer rule should be adopted for VRS, and the following specific points:

1. What should the speed of answer time be for VRS calls? What percentage of VRS calls should be required to be answered within that period of time?
2. When should a particular speed of answer rule be effective? Should VRS speed of answer standards be phased in over time? If so, how should the standards be phased in (*i.e.*, what standards should apply at what points in time)?
3. What should be the starting and ending points for measuring speed of answer?

We note, for example, that in the *IP Declaratory Ruling* we stated that for IP Relay “we will consider the call delivered to the IP Relay center when the IP Relay center’s equipment accepts the call from the Internet.”⁵ We seek comment on how we should articulate the starting period from which speed of answer can be measured for each call so that all providers are measuring speed of answer in the same manner.

4. How should “abandoned” calls be treated in determining a provider’s compliance with a speed of answer standard?

We note that the TRS regulations presently require that abandoned calls be included in the speed of answer calculation.⁶ Should the same rule apply to VRS and abandoned calls? If not, what other rule should apply to the treatment of abandoned calls?

5. How should “call backs” – *i.e.*, calls where the consumer elects to have the provider call the consumer back when a VRS CA becomes available to place the call, rather than have the consumer wait for the next available CA⁷ – be treated in the speed of answer calculation? Should, for example, such “call backs” be treated as abandoned calls? Should such “call backs” be prohibited once a speed of answer rule is adopted for VRS?

⁴ See generally 47 C.F.R. § 64.601(17).

⁵ *Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling and Second Further Notice of Proposed Rule Making, CC Docket 98-67, FCC 02-121, 17 FCC Rcd 7779 at ¶ 29 (April 22, 2002) (*IP Declaratory Ruling*) (also generally addressing speed of answer and IP Relay).

⁶ See 47 C.F.R. § 64.604(b)(2)(ii)(B); see also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CC Docket 98-67, FCC No. 00-56, 15 FCC Rcd 5140 at ¶¶ 59 n.117 & 64 (March 6, 2000) (*Improved TRS Order*) (addressing abandoned calls and explaining that such calls are those calls answered by a relay center, but never handled by a CA because the customer hangs up).

⁷ See *Federal Communications Commission Clarifies that Certain Telecommunications Relay Services (TRS) Marketing and Call Handling Practices are Improper and Reminds that Video Relay Service (VRS) May not be Used as a Video Remote Interpreting Service*, Public Notice, CC Docket No. 98-67, CG Docket No. 03-123, DA 05-141 at 4 & n.16 (Jan. 26, 2005) (addressing certain kinds of “call back” arrangements).

6. Should a provider's compliance with a speed of answer rule be measured on a daily or monthly basis?⁸ Or should it be measured on some other basis?

7. In connection with the adoption of a speed of answer requirement for VRS, should providers be required to submit reports to the Commission detailing call data reflecting their compliance with the speed of answer rule, and if so, how frequently should such reports be filed (e.g., monthly, quarterly or semi-annually)?

We also seek comment on any other issues relating to the possible adoption of a speed of answer rule for VRS.

Interested parties may file comments in this proceeding on or before February 25, 2005, and reply comments may be filed on or before March 4, 2005. When filing comments, please reference **CC Docket No. 98-67 and CG Docket No. 03-123**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24,121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comment and reply comment to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments and reply comments by Internet e-mail. To get filing instructions, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by electronic media, by commercial overnight courier, or by first-class or overnight U.S. Postal Services mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings or electronic media for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial and electronic media sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Room TW-B204 Washington, DC 20554.

Parties who choose to file by paper should also submit their comments and reply comments on diskette. These diskettes should be submitted, along with three paper copies, to: Dana Jackson, Consumer & Governmental Affairs Bureau, Disability Rights Office, 445 12th Street, SW, Room CY-C417, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case, **CC Docket No. 98-67 and**

⁸ The current speed of answer rule applicable to the other forms of TRS provides that compliance with the speed of answer rule shall be measured on a daily basis. See 47 C.F.R. § 64.604(b)(2)(ii)(C).

CG Docket No. 03-123, type of pleading (comment and reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy - Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Best Copy and Printing (BCPI), Inc., Portals II, 445 12th Street, SW, Room CY- B402, Washington, DC 20554.

Pursuant to section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are subject to disclosure.

The full text of this document and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. This document and copies of subsequently filed documents in this matters may also be purchased from the Commission's duplicating contract, BCPI, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. at their web site www.bcpiweb.com or call 1-800-378-3160.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This *Public Notice* can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro>.

For further information, please contact Gregory Hlibok, Consumer & Governmental Affairs Bureau, Disability Rights Office, at (202) 418-0431 (TTY), or e-mail at Gregory.Hlibok@fcc.gov.

-FCC-